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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/667,894	09/22/2000	Larry Scheinberg	11847-002001	1229

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FISH & RICHARDSON PC
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EXAMINER

HAVAN, THU THAO

ART UNIT PAPER NUMBER

3624

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/667,894

Applicant(s)

SCHEINBERG ET AL.

Examiner

Thu Thao Haven

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14 and 16-24 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-12, 14, and 16-24 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Detailed Action

Response to Amendment

Claims 1-12, 14, and 16-24 are pending. This action is in response to the amendment received February 11, 2005.

Response to Arguments

The rejection of claims 1-12, 14, and 16-24 under 35 U.S.C. 102(b) as being unpatentable over Mosler et al (US 6,304,858) is maintained.

Applicant's arguments filed February 11, 2005 have been fully considered but they are not persuasive.

In response to the arguments concerning the previously rejected claims the following comments are made:

A.) In response to applicant's argument that the references fail to show an asset based margin protocol of applicant's invention, it is noted that the features upon which applicant relies (i.e., an asset based margin protocol) are just an "or" limitation for determining that a position calls for either a cash based margin protocol "or" an asset based margin protocol. As applicant admitted in page 7 of amendment of February 11, 2005, Mosler is directed solely to a method using a cash based margin protocol. Thus, Mosler only needs to meet one protocol to overcome the claim since only one protocol or the other protocol is required.

B.) Applicant alleges that the prior art made of record fails to teach determining that a position calls for either a cash based margin protocol or an asset based margin

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protocol. The examiner disagrees with applicant's representative since Mosler teaches determining that a position calls for either a cash based margin protocol or an asset based margin protocol (col. 4, lines 46-61, col. 12, lines 1-29, col. 30, lines 43-52). In other words, Mosler teaches determining that a position calls for either a cash based margin protocol when he discloses determining the model price of the cash settled contract at the close of trading in accordance with the pricing model (i.e. Protocol).

C.) Re claims 21-24, Mosler teaches an instruction as claimed in claims 1, 12, and 20. Therefore the rationale applied in the rejection of claims 1, 12, and 20 applies herein.

With regards to the claims rejected as anticipated over Mosler, the examiner would like to point out that the reference teaches the claimed limitations and thus provides adequate support for the claimed limitations. Therefore, the examiner maintains that Mosler anticipated the claimed limitations.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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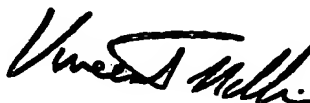
shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Thao Havan whose telephone number is (571) 272-8111. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct-uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

TTH
7/7/2005



VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
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